



Rep. Kurt M. Granberg

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LRB094 07173 MKM 47429 a

1 AMENDMENT TO SENATE BILL 90

2 AMENDMENT NO. _____. Amend Senate Bill 90, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Public Utilities Act is amended by changing
6 Section 9-220 as follows:

7 (220 ILCS 5/9-220) (from Ch. 111 2/3, par. 9-220)

8 Sec. 9-220. Rate changes based on changes in fuel costs.

9 (a) Notwithstanding the provisions of Section 9-201, the
10 Commission may authorize the increase or decrease of rates and
11 charges based upon changes in the cost of fuel used in the
12 generation or production of electric power, changes in the cost
13 of purchased power, or changes in the cost of purchased gas
14 through the application of fuel adjustment clauses or purchased
15 gas adjustment clauses. The Commission may also authorize the
16 increase or decrease of rates and charges based upon
17 expenditures or revenues resulting from the purchase or sale of
18 emission allowances created under the federal Clean Air Act
19 Amendments of 1990, through such fuel adjustment clauses, as a
20 cost of fuel. For the purposes of this paragraph, cost of fuel
21 used in the generation or production of electric power shall
22 include the amount of any fees paid by the utility for the
23 implementation and operation of a process for the
24 desulfurization of the flue gas when burning high sulfur coal

1 at any location within the State of Illinois irrespective of
2 the attainment status designation of such location; but shall
3 not include transportation costs of coal (i) except to the
4 extent that for contracts entered into on and after the
5 effective date of this amendatory Act of 1997, the cost of the
6 coal, including transportation costs, constitutes the lowest
7 cost for adequate and reliable fuel supply reasonably available
8 to the public utility in comparison to the cost, including
9 transportation costs, of other adequate and reliable sources of
10 fuel supply reasonably available to the public utility, or (ii)
11 except as otherwise provided in the next 3 sentences of this
12 paragraph. Such costs of fuel shall, when requested by a
13 utility or at the conclusion of the utility's next general
14 electric rate proceeding, whichever shall first occur, include
15 transportation costs of coal purchased under existing coal
16 purchase contracts. For purposes of this paragraph "existing
17 coal purchase contracts" means contracts for the purchase of
18 coal in effect on the effective date of this amendatory Act of
19 1991, as such contracts may thereafter be amended, but only to
20 the extent that any such amendment does not increase the
21 aggregate quantity of coal to be purchased under such contract.
22 Nothing herein shall authorize an electric utility to recover
23 through its fuel adjustment clause any amounts of
24 transportation costs of coal that were included in the revenue
25 requirement used to set base rates in its most recent general
26 rate proceeding. Cost shall be based upon uniformly applied
27 accounting principles. Annually, the Commission shall initiate
28 public hearings to determine whether the clauses reflect actual
29 costs of fuel, gas, power, or coal transportation purchased to
30 determine whether such purchases were prudent, and to reconcile
31 any amounts collected with the actual costs of fuel, power,
32 gas, or coal transportation prudently purchased. In each such
33 proceeding, the burden of proof shall be upon the utility to
34 establish the prudence of its cost of fuel, power, gas, or coal

1 transportation purchases and costs. The Commission shall issue
2 its final order in each such annual proceeding for an electric
3 utility by December 31 of the year immediately following the
4 year to which the proceeding pertains, provided, that the
5 Commission shall issue its final order with respect to such
6 annual proceeding for the years 1996 and earlier by December
7 31, 1998.

8 (b) A public utility providing electric service, other than
9 a public utility described in subsections (e) or (f) of this
10 Section, may at any time during the mandatory transition period
11 file with the Commission proposed tariff sheets that eliminate
12 the public utility's fuel adjustment clause and adjust the
13 public utility's base rate tariffs by the amount necessary for
14 the base fuel component of the base rates to recover the public
15 utility's average fuel and power supply costs per kilowatt-hour
16 for the 2 most recent years for which the Commission has issued
17 final orders in annual proceedings pursuant to subsection (a),
18 where the average fuel and power supply costs per kilowatt-hour
19 shall be calculated as the sum of the public utility's prudent
20 and allowable fuel and power supply costs as found by the
21 Commission in the 2 proceedings divided by the public utility's
22 actual jurisdictional kilowatt-hour sales for those 2 years.
23 Notwithstanding any contrary or inconsistent provisions in
24 Section 9-201 of this Act, in subsection (a) of this Section or
25 in any rules or regulations promulgated by the Commission
26 pursuant to subsection (g) of this Section, the Commission
27 shall review and shall by order approve, or approve as
28 modified, the proposed tariff sheets within 60 days after the
29 date of the public utility's filing. The Commission may modify
30 the public utility's proposed tariff sheets only to the extent
31 the Commission finds necessary to achieve conformance to the
32 requirements of this subsection (b). During the 5 years
33 following the date of the Commission's order, but in any event
34 no earlier than January 1, 2007, a public utility whose fuel

1 adjustment clause has been eliminated pursuant to this
2 subsection shall not file proposed tariff sheets seeking, or
3 otherwise petition the Commission for, reinstatement of a fuel
4 adjustment clause.

5 (c) Notwithstanding any contrary or inconsistent
6 provisions in Section 9-201 of this Act, in subsection (a) of
7 this Section or in any rules or regulations promulgated by the
8 Commission pursuant to subsection (g) of this Section, a public
9 utility providing electric service, other than a public utility
10 described in subsection (e) or (f) of this Section, may at any
11 time during the mandatory transition period file with the
12 Commission proposed tariff sheets that establish the rate per
13 kilowatt-hour to be applied pursuant to the public utility's
14 fuel adjustment clause at the average value for such rate
15 during the preceding 24 months, provided that such average rate
16 results in a credit to customers' bills, without making any
17 revisions to the public utility's base rate tariffs. The
18 proposed tariff sheets shall establish the fuel adjustment rate
19 for a specific time period of at least 3 years but not more
20 than 5 years, provided that the terms and conditions for any
21 reinstatement earlier than 5 years shall be set forth in the
22 proposed tariff sheets and subject to modification or approval
23 by the Commission. The Commission shall review and shall by
24 order approve the proposed tariff sheets if it finds that the
25 requirements of this subsection are met. The Commission shall
26 not conduct the annual hearings specified in the last 3
27 sentences of subsection (a) of this Section for the utility for
28 the period that the factor established pursuant to this
29 subsection is in effect.

30 (d) A public utility providing electric service, or a
31 public utility providing gas service may file with the
32 Commission proposed tariff sheets that eliminate the public
33 utility's fuel or purchased gas adjustment clause and adjust
34 the public utility's base rate tariffs to provide for recovery

1 of power supply costs or gas supply costs that would have been
2 recovered through such clause; provided, that the provisions of
3 this subsection (d) shall not be available to a public utility
4 described in subsections (e) or (f) of this Section to
5 eliminate its fuel adjustment clause. Notwithstanding any
6 contrary or inconsistent provisions in Section 9-201 of this
7 Act, in subsection (a) of this Section, or in any rules or
8 regulations promulgated by the Commission pursuant to
9 subsection (g) of this Section, the Commission shall review and
10 shall by order approve, or approve as modified in the
11 Commission's order, the proposed tariff sheets within 240 days
12 after the date of the public utility's filing. The Commission's
13 order shall approve rates and charges that the Commission,
14 based on information in the public utility's filing or on the
15 record if a hearing is held by the Commission, finds will
16 recover the reasonable, prudent and necessary jurisdictional
17 power supply costs or gas supply costs incurred or to be
18 incurred by the public utility during a 12 month period found
19 by the Commission to be appropriate for these purposes,
20 provided, that such period shall be either (i) a 12 month
21 historical period occurring during the 15 months ending on the
22 date of the public utility's filing, or (ii) a 12 month future
23 period ending no later than 15 months following the date of the
24 public utility's filing. The public utility shall include with
25 its tariff filing information showing both (1) its actual
26 jurisdictional power supply costs or gas supply costs for a 12
27 month historical period conforming to (i) above and (2) its
28 projected jurisdictional power supply costs or gas supply costs
29 for a future 12 month period conforming to (ii) above. If the
30 Commission's order requires modifications in the tariff sheets
31 filed by the public utility, the public utility shall have 7
32 days following the date of the order to notify the Commission
33 whether the public utility will implement the modified tariffs
34 or elect to continue its fuel or purchased gas adjustment

1 clause in force as though no order had been entered. The
2 Commission's order shall provide for any reconciliation of
3 power supply costs or gas supply costs, as the case may be, and
4 associated revenues through the date that the public utility's
5 fuel or purchased gas adjustment clause is eliminated. During
6 the 5 years following the date of the Commission's order, a
7 public utility whose fuel or purchased gas adjustment clause
8 has been eliminated pursuant to this subsection shall not file
9 proposed tariff sheets seeking, or otherwise petition the
10 Commission for, reinstatement or adoption of a fuel or
11 purchased gas adjustment clause. Nothing in this subsection (d)
12 shall be construed as limiting the Commission's authority to
13 eliminate a public utility's fuel adjustment clause or
14 purchased gas adjustment clause in accordance with any other
15 applicable provisions of this Act.

16 (e) Notwithstanding any contrary or inconsistent
17 provisions in Section 9-201 of this Act, in subsection (a) of
18 this Section, or in any rules promulgated by the Commission
19 pursuant to subsection (g) of this Section, a public utility
20 providing electric service to more than 1,000,000 customers in
21 this State may, within the first 6 months after the effective
22 date of this amendatory Act of 1997, file with the Commission
23 proposed tariff sheets that eliminate, effective January 1,
24 1997, the public utility's fuel adjustment clause without
25 adjusting its base rates, and such tariff sheets shall be
26 effective upon filing. To the extent the application of the
27 fuel adjustment clause had resulted in net charges to customers
28 after January 1, 1997, the utility shall also file a tariff
29 sheet that provides for a refund stated on a per kilowatt-hour
30 basis of such charges over a period not to exceed 6 months;
31 provided however, that such refund shall not include the
32 proportional amounts of taxes paid under the Use Tax Act,
33 Service Use Tax Act, Service Occupation Tax Act, and Retailers'
34 Occupation Tax Act on fuel used in generation. The Commission

1 shall issue an order within 45 days after the date of the
2 public utility's filing approving or approving as modified such
3 tariff sheet. If the fuel adjustment clause is eliminated
4 pursuant to this subsection, the Commission shall not conduct
5 the annual hearings specified in the last 3 sentences of
6 subsection (a) of this Section for the utility for any period
7 after December 31, 1996 and prior to any reinstatement of such
8 clause. A public utility whose fuel adjustment clause has been
9 eliminated pursuant to this subsection shall not file a
10 proposed tariff sheet seeking, or otherwise petition the
11 Commission for, reinstatement of the fuel adjustment clause
12 prior to January 1, 2007.

13 (f) Notwithstanding any contrary or inconsistent
14 provisions in Section 9-201 of this Act, in subsection (a) of
15 this Section, or in any rules or regulations promulgated by the
16 Commission pursuant to subsection (g) of this Section, a public
17 utility providing electric service to more than 500,000
18 customers but fewer than 1,000,000 customers in this State may,
19 within the first 6 months after the effective date of this
20 amendatory Act of 1997, file with the Commission proposed
21 tariff sheets that eliminate, effective January 1, 1997, the
22 public utility's fuel adjustment clause and adjust its base
23 rates by the amount necessary for the base fuel component of
24 the base rates to recover 91% of the public utility's average
25 fuel and power supply costs for the 2 most recent years for
26 which the Commission, as of January 1, 1997, has issued final
27 orders in annual proceedings pursuant to subsection (a), where
28 the average fuel and power supply costs per kilowatt-hour shall
29 be calculated as the sum of the public utility's prudent and
30 allowable fuel and power supply costs as found by the
31 Commission in the 2 proceedings divided by the public utility's
32 actual jurisdictional kilowatt-hour sales for those 2 years,
33 provided, that such tariff sheets shall be effective upon
34 filing. To the extent the application of the fuel adjustment

1 clause had resulted in net charges to customers after January
2 1, 1997, the utility shall also file a tariff sheet that
3 provides for a refund stated on a per kilowatt-hour basis of
4 such charges over a period not to exceed 6 months. Provided
5 however, that such refund shall not include the proportional
6 amounts of taxes paid under the Use Tax Act, Service Use Tax
7 Act, Service Occupation Tax Act, and Retailers' Occupation Tax
8 Act on fuel used in generation. The Commission shall issue an
9 order within 45 days after the date of the public utility's
10 filing approving or approving as modified such tariff sheet. If
11 the fuel adjustment clause is eliminated pursuant to this
12 subsection, the Commission shall not conduct the annual
13 hearings specified in the last 3 sentences of subsection (a) of
14 this Section for the utility for any period after December 31,
15 1996 and prior to any reinstatement of such clause. A public
16 utility whose fuel adjustment clause has been eliminated
17 pursuant to this subsection shall not file a proposed tariff
18 sheet seeking, or otherwise petition the Commission for,
19 reinstatement of the fuel adjustment clause prior to January 1,
20 2007.

21 (g) The Commission shall have authority to promulgate rules
22 and regulations to carry out the provisions of this Section.

23 (h) Any gas utility may enter into a 20-year supply
24 contract with any company for synthetic natural gas produced
25 from coal through the gasification process if the company has
26 commenced construction of a coal gasification facility by July
27 1, 2008. The cost for the synthetic natural gas is reasonable
28 and prudent and recoverable through the purchased gas
29 adjustment clause for years one through 10 of the contract if:
30 (i) the only coal used in the gasification process has high
31 volatile bituminous rank and greater than 1.7 pounds of sulfur
32 per million Btu content; (ii) at the time the contract term
33 commences, the price per million Btu does not exceed \$5 in 2004
34 dollars, adjusted annually based on the change in the Annual

1 Consumer Price Index for All Urban Consumers for the Midwest
2 Region as published in April by the United States Department of
3 Labor, Bureau of Labor Statistics (or a suitable Consumer Price
4 Index calculation if this Consumer Price Index is not
5 available) for the previous calendar year; provided that the
6 price per million Btu shall not exceed \$5.50 at any time during
7 the contract; (iii) the utility's aggregate long-term supply
8 contracts for the purchase of synthetic natural gas produced
9 from coal through the gasification process does not exceed 25%
10 of the annual system supply requirements of the utility at the
11 time the contract is entered into; and (iv) the contract is
12 entered into within one year after the effective date of this
13 amendatory Act of the 94th General Assembly and terminates 20
14 years after the commencement of the production of synthetic
15 natural gas. The contract shall provide that if, at any time
16 during years 11 through 20 of the contract, the Commission
17 determines that the cost for the synthetic natural gas under
18 the contract is not reasonable and prudent, then the company
19 shall reimburse the utility for the difference between the cost
20 deemed reasonable and prudent by the Commission and the cost
21 imposed under the contract.

22 (i) If a gas utility or an affiliate of a gas utility has
23 an ownership interest in any entity that produces or sells
24 synthetic natural gas, Article VII of this Act shall apply.

25 (Source: P.A. 92-537, eff. 6-6-02.)

26 Section 99. Effective date. This Act takes effect upon
27 becoming law."